

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

**BRIAN SMITH,**  
**Plaintiff**

**V.**

**ROBERT HOFMANN,  
SUSAN WEHRY, VERMONT  
DEPARTMENT OF CORRECTIONS  
MEDICAL DEPARTMENT, LEE  
ADJUSTMENT CENTER MEDICAL  
DEPARTMENT, CORRECTIONS  
CORPORATION OF AMERICA,  
Defendants**

[illegible]

**File No. 1:06-CV-73**

## ORDER

The Magistrate Judge's Report and Recommendation was filed October 19, 2006 (Paper 14). After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). The Motion to Dismiss filed by defendants Robert Hofmann, Susan Wehry and the Vermont Department of Corrections Medical Department (Paper 8) is GRANTED in part. All claims against the Vermont Department of Corrections, and all claims against defendants Hofmann and Wehry in their official capacities, are DISMISSED with prejudice.

Plaintiff's Motion for Extension of Time (Paper 12) is DENIED. All remaining claims are DISMISSED without prejudice.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 27<sup>th</sup> day of November, 2006.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
United States District Judge